APPENDIX "B"

Order, Court of Appeals for the Seventh Circuit, entered March 21, 1968, and captioned as in Appendix A *supra*.

It is ordered by the Court that the petition for rehearing filed in the above entitled cause be and the same is hereby denied.

APPENDIX "C"

(Memorandum Opinion of the Court of Appeals for the Sixth Circuit; reprinted here for the reference convenience of this Court)

No. 17,038

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

JAMES LEONARD SINGLETON,

Defendant-Appellant.

ORDER

(Filed March 10, 1967)

Before PHILIPS, EDWARDS and PECK, *Circuit Judges.*

The defendant in a Mann Act case was found guilty by the jury under both counts of the indictment. The jury verdict was returned September 22, 1965. The district court set the sentencing for Thursday, September 20, 1965, and instructed the defendant to report to the United States Probation Officer in Peoria, Illinois, for an interview to aid in the preparation of the pre-sentence report. He was allowed to remain free on his $5,000 appearance bond pending his sentencing.

The defendant did not contact the Probation Office in Peoria until 4:45 p.m. on September 28. When he did not appear in the district court at Jackson, Tennessee, for sentencing on September 30, the district court ordered a forfeiture on his appearance bond and issued a warrant for his arrest. The defendant appeared in court at 9:00 a.m. the following morning, claiming that he had had an airplane reservation but missed his connection because of automobile trouble, and that because of bad weather he was unsuccessful in an effort to charter a plane.

The surety on the appearance bond thereupon filed a petition asking the district court to set aside the forfeiture on the bond and to discharge the surety from all further liability. The district court entered an order denying relief. From this order appellant surety company has appealed. We hold that the district court did not err in finding that the ends of justice required enforcement of the forfeiture and did not abuse his discretion in refusing to set the forfeiture aside.

However, upon consideration of the facts and circumstances of the present case, it is ORDERED that the order of the district court be and hereby is modified so as to remit the forfeiture to the extent of $3,000 and so as to require appellant to forfeit the bond in the amount of $2,000. As modified, the order of the district court is hereby affirmed.

Entered By Order Of The Court:
Carl W. Reuss
Clerk
A True Copy.
ATTEST:
Carl W. Reuss
Carl W. Reuss, Clerk